

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

TAVARES BROOKS,

Petitioner,

Civil No. 05-10056-BC
Criminal No. 03-20014-BC
Honorable David M. Lawson

v.

UNITED STATES OF AMERICA,

Respondent.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION AND DENYING PETITIONER'S
MOTION TO VACATE, SET ASIDE, OR CORRECT SENTENCE**

Presently before the Court is the report issued by United States Magistrate Judge Charles E. Binder pursuant to an order of reference recommending that the petitioner's motion to vacate, set aside, or correct sentence filed pursuant to 28 U.S.C. § 2255 be denied for lack of merit. Although the magistrate judge's report, issued on June 1, 2005, explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, the petitioner did not file any objections.

The petitioner's failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the plaintiffs' claims. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation is **ADOPTED**.

It is further **ORDERED** that the petitioner's motion to vacate, set aside, or correct sentence

[dkt # 40] is **DENIED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: June 22, 2005

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on June 22, 2005.

s/Tracy A. Jacobs
TRACY A. JACOBS